

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:06cr63-1-RLV

UNITED STATES OF AMERICA,       )  
    Plaintiff,                        )  
  )  
  )  
                  vs.                    )  
  )  
SOUVIRA SIMALAYVONG,            )  
    Defendant.                        )  
  )  
\_\_\_\_\_  
  )

**ORDER**

**THIS MATTER** is before the Court upon the Defendant's Application To Proceed Without Prepayment of Fees and Affidavit, filed September 2, 2008. Defendant pled guilty to various violations of federal law on November 5, 2007. Sentencing was held on August 5, 2008, and Judgment was entered on August 13, 2008. Defendant was sentenced to a term of 108 months imprisonment.

Further, Defendant was represented by a privately retained defense attorney, John Nickerson, who is still attorney of record in this matter. However, the Defendant filed a Pro Se Notice of Appeal on August 8, 2008.

The Defendant now seeks permission to proceed on appeal In Forma Pauperis. In Support of the Affidavit the Defendant represents that he is currently incarcerated at the Iredell County Jail and is not currently employed. The Affidavit further represents that in the past twelve (12) months he has received money from family and friends in the sum of \$50-\$150 per month until he is able to work during his incarceration. Such Affidavit reflects that he does not have any cash, checking or savings accounts.



Furthermore, the Affidavit represents that the Defendant does not own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value. However, other than his own representations of indigence, the Defendant has failed to submit any proof of his poverty, such as a copy of a certified statement of his inmate account from the Iredell County Jail reflecting his lack of funds. Based upon the lack of information, the Court cannot determine with any degree of certainty that the Defendant is unable to pay the costs associated with his appeal. Therefore, the Court will hold the Defendant's Application in abeyance until such time as the Defendant provides the missing financial information in support of his allegation of poverty.

**NOW, THEREFORE, IT IS ORDERED:**

1. That the Defendant's Application To Proceed Without Prepayment Of Fees and Affidavit is held in **ABEYANCE**;
2. That within thirty (30) days of the date of this Order, the Defendant shall submit to the Court a certified statement of his inmate account from the Iredell County Jail. **Failure to submit the requested information as herein directed could result in the denial of Defendant's Application;**  
and
3. That the Clerk shall send copies of the Order to the Defendant, defense counsel of record, and to the Clerk of the Fourth Circuit Court of Appeals.

Signed: September 12, 2008



Richard L. Voorhees  
United States District Judge

